

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

RONALD STEWART,

Plaintiff,

v.

ORDER
10-cv-409-bbc

KAREN TIMBERLAKE, JOHN EASTERDAY,
STEVE WATTERS and DEB MCCULLOCH,

Defendants.

Plaintiff was granted leave to proceed in this action on September 21, 2010. On November 1, 2010, defendants Timberlake, Easterday and McCulloch answered plaintiff's complaint and on November 9, 2010 defendant Watters answered plaintiff's complaint, raising various affirmative defenses. Now plaintiff has filed a document titled "Plaintiff's Motion Opposing Defendants' Motion to Dismiss," in which he replies to factual statements made in the answer and argues that certain of defendants' affirmative defenses are not valid.

Plaintiff does not need to be concerned: although defendants have raised certain affirmative defenses in their answer, defendants have not filed an actual motion to dismiss. Therefore, plaintiff does not need to reply to the answer. If defendants later file an actual motion to dismiss, then plaintiff will be allowed to respond to that motion. In the meantime, Rules 7(a) and 8(b)(6) of the Federal Rules of Civil Procedure work together to protect plaintiff from defendants' claims in the answer. Because of those rules, this court does not need plaintiff to reply to the answer; instead, the court automatically assumes that plaintiff has denied the factual statements and affirmative defenses raised in that answer.

ORDER

IT IS ORDERED that plaintiff's reply to the answer, dkt 28, will be placed in the court's file but will not be considered.

Entered this 18th day of November, 2010.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge